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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,967	02/14/2001	Julian Orbanes	GPH-003H (6934/6)	9256

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GEOPHOENIX, INC.
52 Trowbridge Street, #5
Cambridge, MA 02139

EXAMINER

TRAN, MYLINH T

ART UNIT	PAPER NUMBER
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2179

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,967

Applicant(s)

ORBANES ET AL.

Examiner

Mylinh Tran

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/10/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's Amendment filed 05/10/04 has been entered and carefully considered. Claims 1, 5 and 21 have been amended. However, the limitations of the amended claims have not been found to be patentable over prior art of record; therefore, claims 1-12 and 15-22 are rejected under the same ground of rejection as set forth in the Office Action mailed 11/06/03.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/783,715. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an

element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963). Furthermore, these claims are rejected since it was obvious to one of ordinary skill in the art to omit an element when its function was not desired; the subject matter is not patentable in absence of showing of unexpected result flowing from such omission. See *In re Wilson*, 155 USPQ 740 (CCPA 1967). In addition, omission of an element and its function where not needed is obvious. See *Ex parte Rainu*, 168 USPQ 375 (PTO Board of Appeal 1969).

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of copending Application No. 09/782,964. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

Art Unit: 2179

claims 1-20 of copending Application No. 09/782,966. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claims 5-12 and 15-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/782,939. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claims 5-12 and 15-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-20 of copending Application No. 09/782,964. Although the conflicting claims are not identical, they are not patentably distinct from each

other because it is apparent that the elimination of an element, eliminates the functions of those elements. It is well settled, however, that omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. See *In re Karlson*, 136 USPQ 184 (CCPA 1963).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 and 15-22 remain rejected under 35 U.S.C. 102(b) as being anticipated by Strasnick et al.[US. 5,671,381].

As to claims 1, 5 and 21, Strasnick et al. disclose employing one or more data objects contained within a data source (column 6, lines 42-65); employing a spatial paradigm for defining hierarchical relationships between said data objects (column 2, lines 20-35 and column 6, lines 1-35); defining a plurality of hierarchical plates (figure 4A, 420 is one plate and so on); defining an appearance for each of said hierarchical plates, said appearance containing a graphical representation one or more of said data objects (figure 4A, data object is contained in each plate); and locating in a virtual space each of said

Art Unit: 2179

hierarchical plates, based at least in part on said spatial paradigm (column 6, lines 1-35) said virtual space including a first dimension, a second dimension, and a third dimension (figure 1, the cells 120 contain data objects 110, a lot of cells are contained in one dimension, the first layer of cells which are located on the top (nodes) of the hierarchical tree are contained in the first dimension, the next layer of cells are contained in the second dimension and so on... see figure 1, column 4, lines 10-30), said first dimension corresponding to a plurality of planes within said virtual space at which one of said hierarchical plates can be located (each cell 120 of figure 1 is one plane which contains a lot of data block 110 on it) and said second and said third dimensions corresponding to a position of said one of said hierarchical plates within a plane, said hierarchical plates being located along said first dimension according to said hierarchical relationship (each data object (data block) are located on different position, figure 1).

As to claims 2, 7 and 22, Strasnick et al. also disclose the step of defining an appearance further comprises, defining in a portion of said appearance of a first of said one or more hierarchical plates an appearance of data objects associated with a second hierarchical plate at a size relatively smaller than data objects contained in said first hierarchical plate (figure 4A).

As to claims 3 and 4, Strasnick et al. show employing raster and vector graphics in defining said graphical representation (column 2, lines 34-50).

Art Unit: 2179

As to claim 6, Strasnick et al. also show step of displaying on a client further comprises displaying in a portion of said appearance of said first hierarchical plate an appearance of data objects associated with a second hierarchical plate, located virtually behind said first hierarchical plate in said virtual display space (figure 4A, column 10, lines 42-68).

As to claim 8, Strasnick et al. provide virtual distance from said first one of said hierarchical plates to said user decreases, displaying a reduced number of said one or more of said data objects associated with said first one of said hierarchical plates and displaying more detail with respect to said reduced number (column 10, lines 52-67 and column 6, lines 18-24); and defining virtual distances from each of said hierarchical plates to said user, as said, and as said virtual distance from said first one of said hierarchical plates to said user increases, displaying an increased number of said one or more of said data objects associated with said first one of said plates, and displaying less detail with respect to said increased number (column 7, lines 1-20).

As to claims 9 and 15, Strasnick et al. also provide defining said first hierarchical plate to be translucent, and enabling said user to view through said first hierarchical plate one or more data objects on a second one of said hierarchical plates located at a greater virtual distance from said user than said first hierarchical plate (figure 4A, column 18, lines 15-40). In figure 4A, user can view the behind plate through the first plate).

As to claim 10, Strasnick et al. demonstrate defining said first hierarchical plate to be opaque, and inhibiting said user from viewing through said first hierarchical plate said one or more data objects associated with a second one of said hierarchical plates located at a greater virtual distance from said user than said first hierarchical plate (column 12, lines 35-65).

As to claim 11, Strasnick et al. also demonstrate defining a closest one of said one or more hierarchical plates as having a smallest one of said virtual distances, and employing said closest one of said hierarchical plates as said first one of said (column 7, lines 1-55).

As to claim 12, Strasnick et al. disclose organizing said one or more data objects on one of said one or more hierarchical plates to be hierarchically equivalent (column 6, lines 10-65).

As to claim 16, Strasnick et al. also disclose enabling said user to vary said virtual distances with respect to each of said plates (column 8, lines 1-11).

As to claim 17, Strasnick et al. show defining a threshold smallest virtual distance at which said closest one of said hierarchical plates is determined to be located virtually behind said user, in response to said user navigating to said threshold smallest virtual distance, ceasing to display said closest one of said hierarchical plates, and defining a plate having a next smallest virtual distance to be said closest one of said hierarchical plates (column 6, lines 10-18).

As to claim 18, Strasnick et al. also show providing a visual indication to said user as to which of said hierarchical plates is being displayed (column 1-18).

Art Unit: 2179

As to claim 19, Strasnick et al. teach the step of providing further comprises employing a breadcrumb trail (column 10, lines 1-18, spotlight).

As to claim 20, Strasnick et al. also teach enabling said user to select a representation of one of said hierarchical plates displayed in said visual indication, thereby changing said appearance to said selected one of said hierarchical plates (column 10, lines 19-42).

Response to Arguments

Applicant argues Strasnick does not locate data objects on different planes. However, the hierarchical tree contains different planes and the data objects are located on these different planes (figure 4A, 420 is one plate and so on). On figure 4A, data object is contained in each plate. On figure 1, the cells 120 contain data objects 110, a lot of cells are contained in one dimension, the first layer of cells which are located on the top (nodes) of the hierarchical tree are contained in the first dimension, the next layer of cells are contained in the second dimension and so on... see figure 1, column 4, lines 10-30). Therefore, Strasnick teach the step of locating data objects on different planes.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the

Art Unit: 2179

advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached at 571-272-4136.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

703-872-9306

and / or:

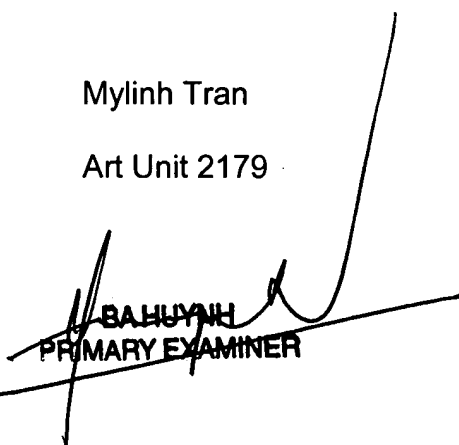
571-273-4141 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Art Unit: 2179

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

Art Unit 2179


BA HUYNH
PRIMARY EXAMINER